

**TOWN OF ARUNDEL, MAINE
ORDINANCE PROHIBITING OBSCENITY**

ARTICLE I - PURPOSE

The purpose of this ordinance is to prohibit any commercial enterprise from presenting or engaging in any obscene exhibitions. It is not intended to suppress or inhibit the free exchange of ideas or artistic expression. The purpose of this ordinance is to promote and protect the general welfare, public safety, public order, and morals. The conduct prohibited is that which, applying community standards, the citizens of Arundel have clearly found to be offensive to the general welfare, public welfare, public safety, order, and morals of the town and its citizens.

ARTICLE II - DEFINITIONS

Section 1. "Commercial Enterprise" means any business, corporation, association or natural person established for pecuniary gains and any club as defined in the Arundel Land Use Ordinance.

Section 2. "Present" means to show, reveal, display or expose to any person.

Section 3. "Engage in" means to solicit, produces directs finances physically participate in, compensate others for, further the interest of, or be otherwise involved with, the proscribed conduct.

Section 4. "Obscene" means any conduct that:

- a. Presents actual or simulated sexual acts, sodomy, bestiality, excretory functions, masturbation, direct physical stimulation of unclothed genitals, flagellation or torture in context of sexual acts, exhibitions of the human male or female genitals, pubic area, buttocks, or the female breast at or below the top of the aureole; and
- b. Considered as a whole, lacks serious literary, artistic, political or scientific value.

Section 5. "Exhibition" means any aural, visual or tactile performance, dramatization, show or display which includes any amount of human, animal or animated conduct, whether presented live or by way of mechanical or digital reproduction, sound recording, audio-visual cassette or tape, silhouette depiction, or by any other means.

ARTICLE III - PROHIBITION

Section 1. It shall be unlawful for any commercial enterprise to present any obscene exhibitions within the Town of Arundel, Maine.

Section 2. It shall be unlawful for any commercial enterprise to engage in any obscene exhibition within the Town of Arundel, Maine.

Section 3. It shall be unlawful for any commercial enterprise to solicit, permit, promote, or assist any commercial enterprise or person to present or engage in any obscene exhibition within the Town of Arundel, Maine.

ARTICLE IV - ENFORCEMENT

This ordinance may be enforced by the Code Enforcement Officer or any police officer. Upon witnessing an act prohibited by Article III, the enforcing officer shall notify in writing the individual conducting the prohibited act, the owner and manager of the business, and the owner of the property of the violation and order an immediate cessation of the prohibited act. Any person, including, but not limited to, the operator, manager, tenant, landowner, or owner of a commercial enterprise and a landowner who violates or permits a violation of this ordinance is liable for the penalties set forth in Article V.

ARTICLE V - PENALTY

Section 1. Any conduct made unlawful by this ordinance and any violation of this ordinance shall be punishable by a fine of one thousand dollars (\$1,000.00) for each offense. Each day that such unlawful act or violation continues shall be considered a separate offense.

Section 2. In addition to any other penalty provided by law, commission of acts prohibited by this ordinance shall constitute a nuisance and may be abated by the Town, seeking an injunction to prohibit further and continued violations.

Section 3. Any and all fines collected shall be recovered for the use of the Town of Arundel, Maine.

Section 4. If the commercial enterprise convicted of violating this ordinance benefits from the issuance of a license for serving alcoholic beverages, such license shall be revoked upon conviction for a violation of this ordinance and may not be subsequently issued to the owner, operator, or manager of any commercial enterprise found in violation of this ordinance for a period of 3 years.

ARTICLE VI - SEVERABILITY

If any section, subsection, sentence, clause or phrase of the Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

Adopted: September 14, 1981

Revised: June 11, 2003